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recording Magistrate, while fill up the respective columns for their satisfactions did not find any such proof, either making any allegation before him or proved by the accused. Accordingly their disclosure in their retraction application appears to be not proved rather the certificate as has been endorsed by the confessional statement recording Magistrate P.W.6 Nivana Khayer Jesi, P.W.7 Shadbir Yasir Ahsan Chowdhury, P.W.8 Md. Shorofuzzaman Ansari, P.W. 9 Md. Tofazzol Hossain, P.W.10 Atikul Islam appears to be correct and the statements can be held as true and voluntary one. From the deposition of the prosecution witnesses mainly the students who were the inhabitants of the Sher-e-Bangla Hall, and were present on the very day of occurrence i.e. on 06.10.2019 to 07.10.2019, namely P.W 20,21,22,23,24,26,27,29 and 42 disclosed the presence and participation of all the accused in beating the victim as been observed by the trial court are hereby found correct.

It has been argued by the learned advocate appearing for the different appellants that the appellants were not involved in killing the victim but surprising to notice that the accused appellants could not prove by any evidence that they were not been present in the place of occurrence. In the case some of the accused were found to

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“দেশপ্রেমের শপথ নিন, দুর্নীতিকে বিদায় দিন”





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have taken active participation in beating the victim and some were found been present and watching the incidence but none of them had come forward to rescue the victim thereby their presence and participation obviously proved that they had guilty mind and were involved in the alleged occurrence by their presence. P.W. 31 Doctor Shohel Mahmud found the marks of violence on the part of the victim and internal clotting of blood on the very part of injuries also clearly speaks about the injuries and thus opined that the cause of death was due to shock as a result the mentioned injuries, which was anti-mortem and homicidal in nature. Victim succumbed to the death on mercilessly beating. At one stage he requested for water and thereafter commit vomiting and then become unconscious on the torture he has been suffered on the beating of the accused by different articles namely cricket stamp, stick, rope. It has been suggested by one of the accused that although the victim was fallen unconscious and been lying on the floor, when he was recovered if thereafter been taken proper care and measure, his life would have been saved but this suggestion in the alternative way can prove that victim was mercilessly beaten by the accused and commits the crime. When the doctor P.W. 5 Md. Masud Elahi clearly stated that

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after examining the victim, who was lying on the floor, found pulse not palpable, BP not recordable, Respiration- absent, Heart-sound not audible, Pupil-Dilated fixed and non reacting to light and said that: "জীবিত থাকার কোন লক্ষণ ছিলনা তার মধ্যে এটা আমি দেখতে পাই। এতে আমি আবরার ফাহাদকে মৃত বলে ঘোষণা করি।" When a registered doctor after examining the victim found he was dead, a question has been raised by the accused appellant that he was unconscious and there was a chance of his survival if been properly taken due care and conscious is totally immaterial and irrelevant in the case. There is no suggestion from any corner of the defence that the victim was in any way not been killed on the place of occurrence rather he was killed somewhere else and been placed lying near to the stair, the allegation as been brought and being charged against the accused persons of causing death to the victim on beating apparently been proved by their own activities.

Victim Abrar Fahad was found to be killed on beating by the accused only on the allegation that he may be involved into in politics with Shibir. But that cannot be a ground for facing any torture by way of mercilessly beating inhumanly by the sensible persons, who are also claimed to be a meritorious students of the

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BUET. May be some accused are not taken active part in beating the victim but that did not allow them to go on un-punished and cannot be held responsible in as much as all of them were present as well as been identified by video footage that they were present in the alleged occurrence and did not try to rescue the victim thereby they have indirectly supported the alleged killing of the victim. The alleged occurrence of killing the victim in the night of 06.10.2019 to 07.10.2019 was not happen on a sudden provocation rather it was held on a preplanned manner upon taking a decision in a meeting held on 05.10.2019 as has been affirmed by P.W.27 Obaidur Rahman Rafsan a resident student of Sher-e-Bangla Hall BUET and P.W.22 Md. Galib by saying that:

“বিগত ০৫/১০/২০১৯ইং তারিখে আমি যখন চা খেতে নীচে নামি তখন দেখি শেরে বাংলা হলের গেটরুমের ১৬ ও ১৭তম ব্যাচের কয়েকজন বসেছিল। তারা হলেন সকাল, তোহা, জেমি, তানিম, মুজাহিদ, মুজতবা, রাফিদ দেব মিটিং দেখি।”

This plan and subsequent beating of the victim was also been proved by the different resident students of the Sher-e-Bangla Hall namely P.W.20 Abu Nowshad Sakib, P.W. 21 Muhtadi Ahnaf Ansari, P.W.22 Mohammad Galib, P.W.23 Shakhawat Ikbal Ovi roommate of the victim, P.W.24 Tanvir Ahmed Saikat , P.W.26